REMARKS

Claims 1 through 72 are pending in the application. Claims 1, 5 through10, 14 through 19, 23 through 27, 38, 49 and 60 have been amended. Claims 70 through 72 are newly added. Reconsideration of this application is respectfully requested.

The Office Action states that the Declaration is defective because it lacks a claim to the benefit of U.S. Provisional Applications Serial Nos. 60/157,277 and 60/178,036 as set forth in the first paragraph of page 1 of the specification. A substitute Declaration is submitted herewith.

The Office Action has objected to the specification as lacking explicit reference to the nature of reference numerals in Figs. 8 and 12 through 17 as detailed at pages 3 and 4 of the Office Action. The specification has been amended at page 8 by adding a new paragraph describing the functions of reference numerals of Fig. 8 noted by the Office Action. The specification has been amended to clarify the operational description of the reference numerals noted by the Office Action for Figs. 12 through 17. Accordingly, it is submitted that the amendment obviates the objection to the specification and, therefore, that the objection should be withdrawn.

The Office Action has objected to the drawing on the ground that Figs. 11, 12, 13 and 17 lack certain Y or N legends as detailed at pages 2 and 3 of the Office Action. Replacement drawing sheets containing proposed revisions to Figs. 11, 12, and 17 are attached hereto for the Examiner's approval. Thus, Fig. 11 has been amended by supplying a "Y" for step 304. Fig. 12 has been amended by supplying "Y" and "N" legends for step 342. Fig. 17 has been amended by supplying "Y" legends for steps 452 and 464.

With respect to Fig. 13, the specification has been amended at page 14 to clarify that step 356 waits for actuation of add labels button 166 or add button 138 and that step 360 waits for the user to enter label content. Thus, neither step 356 nor step 360 makes any determination. Therefore, no "Y" or "N" legends are necessary.

With respect to the objection to Fig. 16, the specification has been amended at page 16 to provide a description that is consistent with Fig. 16. A replacement drawing sheet is also attached that contains a proposed revision to Fig. 16 for the approval of the Examiner. Fig. 16 has been amended to change step 432 to read "Set Default Positional Palette" in stead of "Record Selected Positional Palette". Support for this change is found in the original specification at page 16, line 6. Fig. 16 has also been amended to add a "Y" legend at step 434 and to delete a "Y" legend at step 442.

For the reasons set forth above, it is submitted that the objection to the drawing is obviated by the amendments to the drawings and to the specification.

The Office Action rejects claims 5 through 9, 14 through 18, 24 through 27, 38, 39, 48, 49, 59 and 60 under the second paragraph of 35 U.S.C. 112 as indefinite because of improper ordering of the alphabetic modifiers and numeric modifiers as detailed at pages 4 and 5 of the Office Action.

The rejection is erroneous with respect to claim 39, which has no gaps in the alphabetic modifier sequence.

These claims (other than claim 39) have been amended to eliminate the objected to modifiers. Thus, claims 5 through 7 have been amended by deleting "(e)" through "(h)", respectively. Claims 14 through 18 have been amended by deleting "(e)" through "(h)", respectively. Claims 24 through 28 have been amended by deleting "(e)" through "(h)", respectively. Claims 38 and 49 have

been amended by deleting "(g)" and "(h)" and providing proper antecedent basis for the step or operation of "assigning an ordered numerical sequence". Claim 48 has been amended by deleting "(f)". Claim 59 has been amended by deleting "sixth". Claim 60 has been amended by deleting "seventh" and "eighth" and providing proper antecedent basis for the means that responds to the fifth entry to assign an ordered numerical sequence.

For the reasons, set forth above, it is submitted that the rejection of claim 39 under the second paragraph of 35 U.S.C. 112 is erroneous and that the rejection of claims claims 5 through 9, 14 through 18, 24 through 27, 38, 48, 49, 59 and 60 under the second paragraph of 35 U.S.C. 112 is obviated by the amendment.

The Office Action rejects claims 1 through 7, 9 through 16, 18 through 25 and 27 through 60 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 4,718,784 to Drisko, hereafter Drisko.

This rejection is inapplicable to independent claims 1, 10 and 19, which have been amended to recite that the plurality of labels is formed for a single job. Thus, the recital that at least one of the labels is unrelated in numerical sequence to any of the other labels of the plurality of labels is for a single job. Thus, the Examiner's contention that the user in Drisko may select previously defined labels or create custom labels is inapplicable to claims 1, 10 and 19 as amended since Drisko does not teach doing previously defined labels and custom labels in a single job. Accordingly, the rejection is inapplicable to claims 1, 10 and 19 as amended.

Moreover, Drisko does not teach doing any numerical sequence of labels in which one of the labels is unrelated in the numerical sequence to the other labels in the sequence. Also, for this reason, the rejection of claims 1, 10 and 19 is inapplicable.

This rejection is erroneous with respect to independent claims 28, 39 and 40 because Drisko does not teach assigning a positional palette to a first one of the plurality of positions of the label as recited in these claims. For this reason, the rejection of these claims is erroneous.

With respect to claims 2, 3, 4, 11, 12, 13, 40, 43, 44, 51, 54 and 55, the Examiner contends that that applicant has failed to define the exact nature of the positional palette. This contention is erroneous because Fig. 3 of the drawing clearly shows a positional palette and the accompanying description in the specification at page 7, lines 17-31 clearly describe the positional palette. In the described example, character positions 66, 68 and 70 of label 64 are selected to have positional palettes. Each of the selected positions may have the same or different positional palettes. Each label created with the selected positional palette will have the attributes assigned to the palette for character positions 66, 68 and 70 and will be the same regardless of the value of any alphabetic or numeric character appearing in the character position.

The Examiner further contends that in view of his position that one of ordinary skill in the art would know that it is common practice to set forth to the user various options...". This contention is irrelevant to a rejection under 35 U.S.C. 102(b) since the recitals of the claim must be taught by the reference itself. In the instant case, Drisko does not teach a positional palette or the ability of a user to designate a positional palette and define a palette of attributes therefore. For this reason, the rejection of claims 2, 3, 4, 11, 12, 13, 40, 43, 44, 51, 54 and 55 is erroneous.

For the reasons set forth above, it is submitted that the rejection of claims 1 through 7, 9 through 16, 18 through 25 and 27 through 60 under 35 U.S.C. 102(b) as anticipated by Drisko is inapplicable to claims 1 through 7, 9 through 16, 18 through 25 and 27 and is erroneous as to claims 28-60 and should be withdrawn.

The Office Action rejects claims 8, 17, 26 and 61 through 69 under 35 U.S.C 103(a) as unpatentable over Drisko as applied to claims 1 through 7, 9through 16, 18 through 25 and 27 through 60.

This rejection is erroneous because a prima facie case has not been made. The Examiner states at page 6 that one of ordinary skill in the art would know that it is common practice to set forth to the user various options by presenting to the user a palette or a display showing a number of possible positions/colors/fonts available to the user. The Examiner cites no evidence to support this statement. Without any supporting evidence, the statement has no [probative value. Therefore, no prima facie case has been made.

Also, the Examiner cites no evidence in support of his statement that it would have been obvious to one of ordinary skill in the art to permit the user to define a rotation of the bar code. Drisko does not teach giving the user the ability to rotate the bar code. Accordingly, the rejection of claims 8, 17 and 26 is erroneous and should be withdrawn.

This rejection is also erroneous as to claims 61 through 69. The Office Action states that the rejection is as applied to claims 1 through 7, 9 through 16, 18 through 25 and 27 through 60. This does not apply to claims 61 through 69, because independent claim 61 and its dependent claims 62 through 69 are separate and distinct from the claims 1 through 7, 9 through 16, 18 through 25 and 27 through 60.

The Examiner contends that Drisko teaches to track the number of labels printed. Drisko's only teaching concerning the number of labels printed appears at step 66 of Fig. 6. The specification at column 8, lines 49 and 50, states that "the user specifies the quantity of each label design to be printed, and the printing mode box 66." This teaching merely tells the computer how many labels

the user wants to print. Drisko contains no teaching of the recitals in claim 61 for managing an inventory of label stock by keeping a current count of labels in the inventory and a warning count, presenting an alert to the user when the current count is less than the warning count and adjusting the current count with a number of refill labels received in response to an entry by the user and adjusting the current count as labels of the inventory are used.

The Examiner makes a further statement that it would have been clear to a skilled artisan that it is not desirable to start a print job that could not be completed because of a low supply of labels. However, the Examiner cites no evidence in support of this statement and, therefore, it has no probative value for a conclusion of obviousness.

Also, the Examiner, relying on both of the unsupported statements discussed above, leaps to a conclusion that it would have been obvious to modify Drisko to provide alterable alert levels. Neither of the two statements nor Drisko mentions alterable alert levels. For the reason set forth above, a prima facie case of obviousness has not been made with respect to claims 61 through 69.

For the reason set forth above, it is submitted that the rejection of claims 8, 17, 26 and 61 through 69 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action cites a number of documents that were not applied in the rejections of the claims. These patents have been reviewed, but are believed to be inapplicable to the claims.

Newly presented claim 70 recites a method for presenting an ad hoc interface to a user for data entry of two or more labels that are unrelated in alphanumeric content or color content. Claim 72 is dependent on claim 70 and further recites the presentation of a serial job interface to the user for entry of a

serial job. Claim 72 recites the presentation of an interface to a user that has the capability of defining by user entry a plurality of labels that have related alphanumeric content, unrelated alphanumeric content or both in a single job. None of the cited references disclose these recitations. Accordingly, it is submitted that claims 70-72 distinguish from the cited art and are, therefore, allowable.

It is respectfully requested for the reasons set forth above that the objections to the specification and drawing be withdrawn, that the rejections under 35 U.S.C. 112, 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims 1 through 71 be allowed and that this application be passed to issue.

Respectfully Submitted,

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JC37

Replacement Sheet

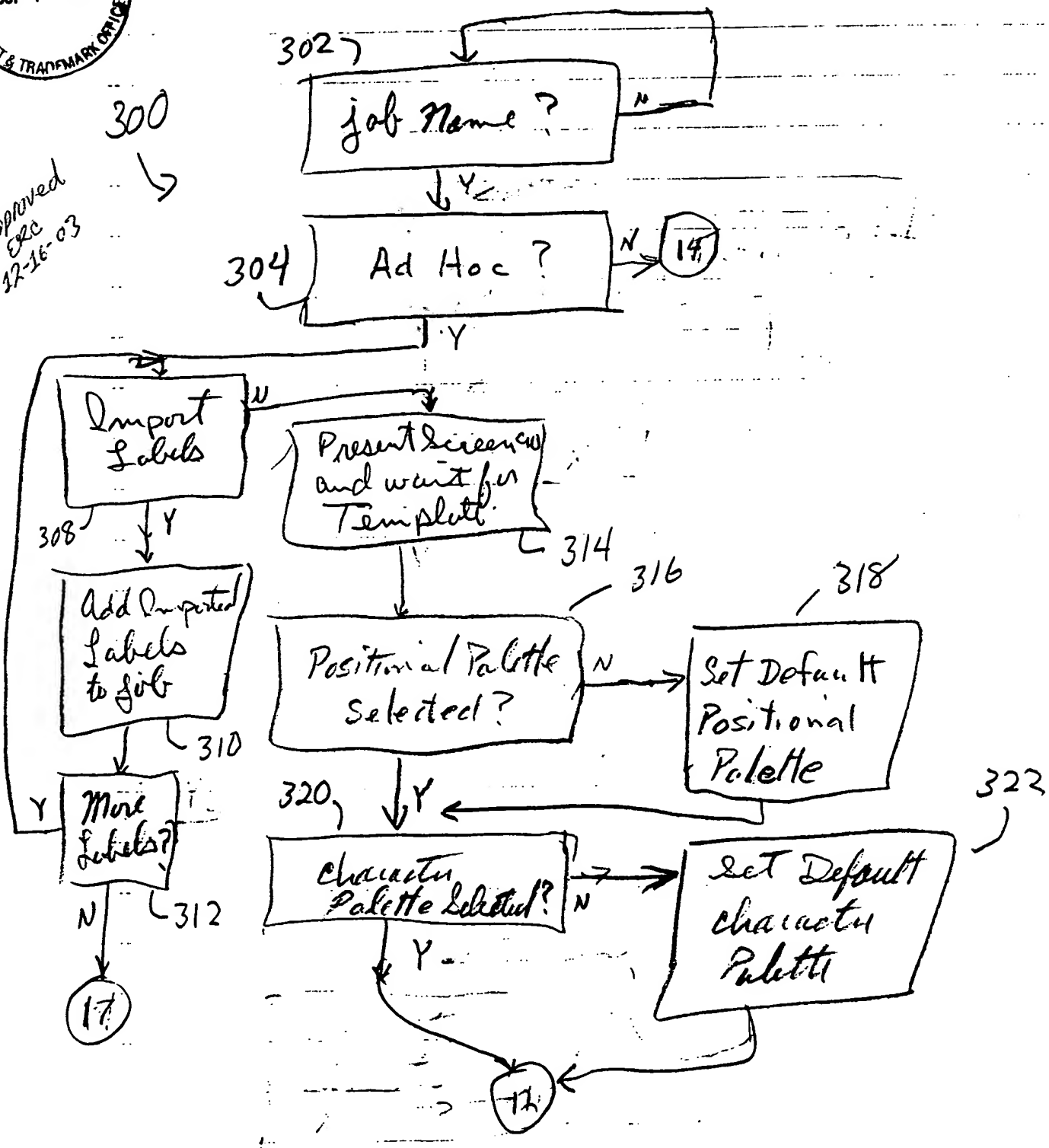

FIG. 11

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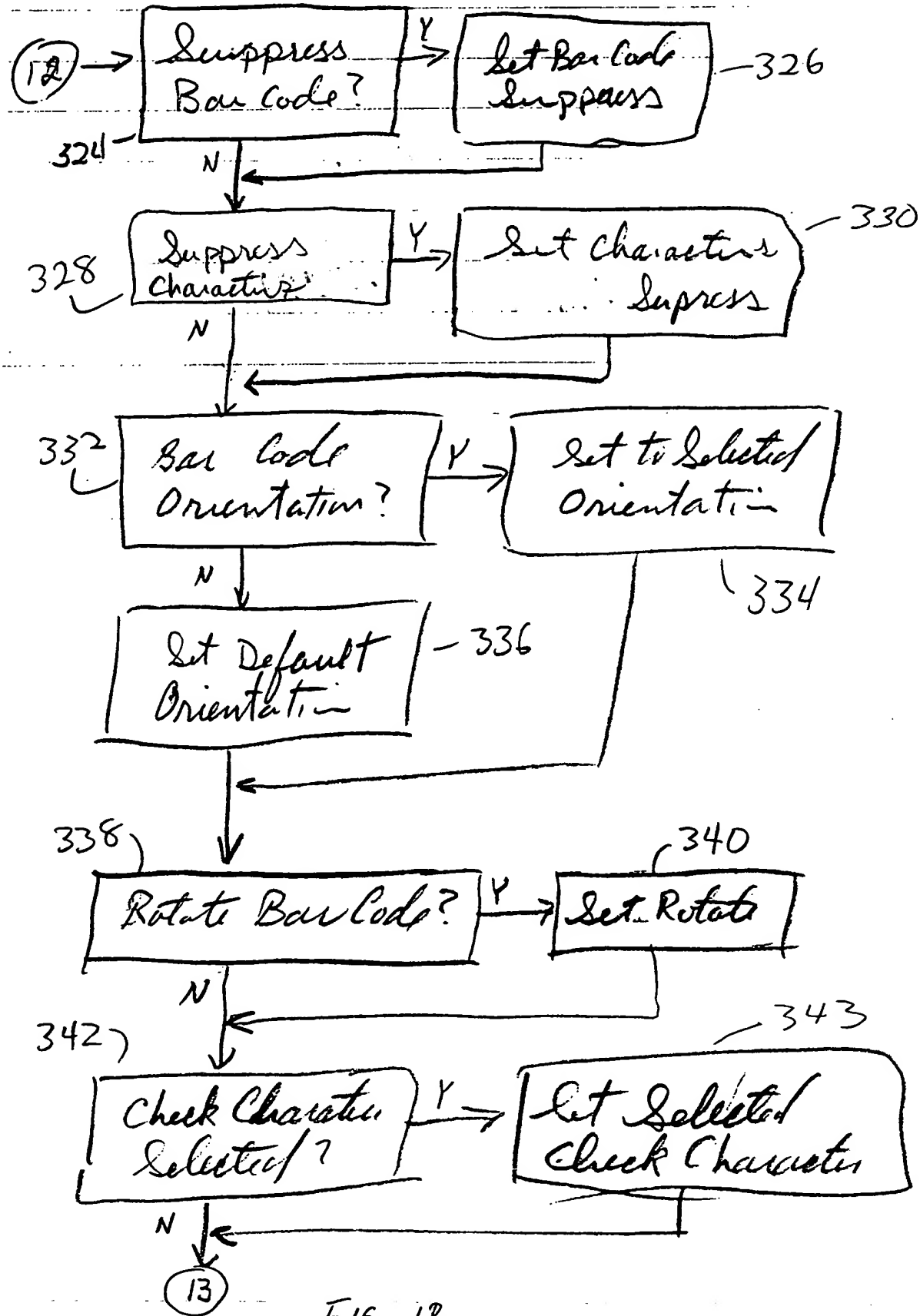

FIG. 12

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Replacement Sheet

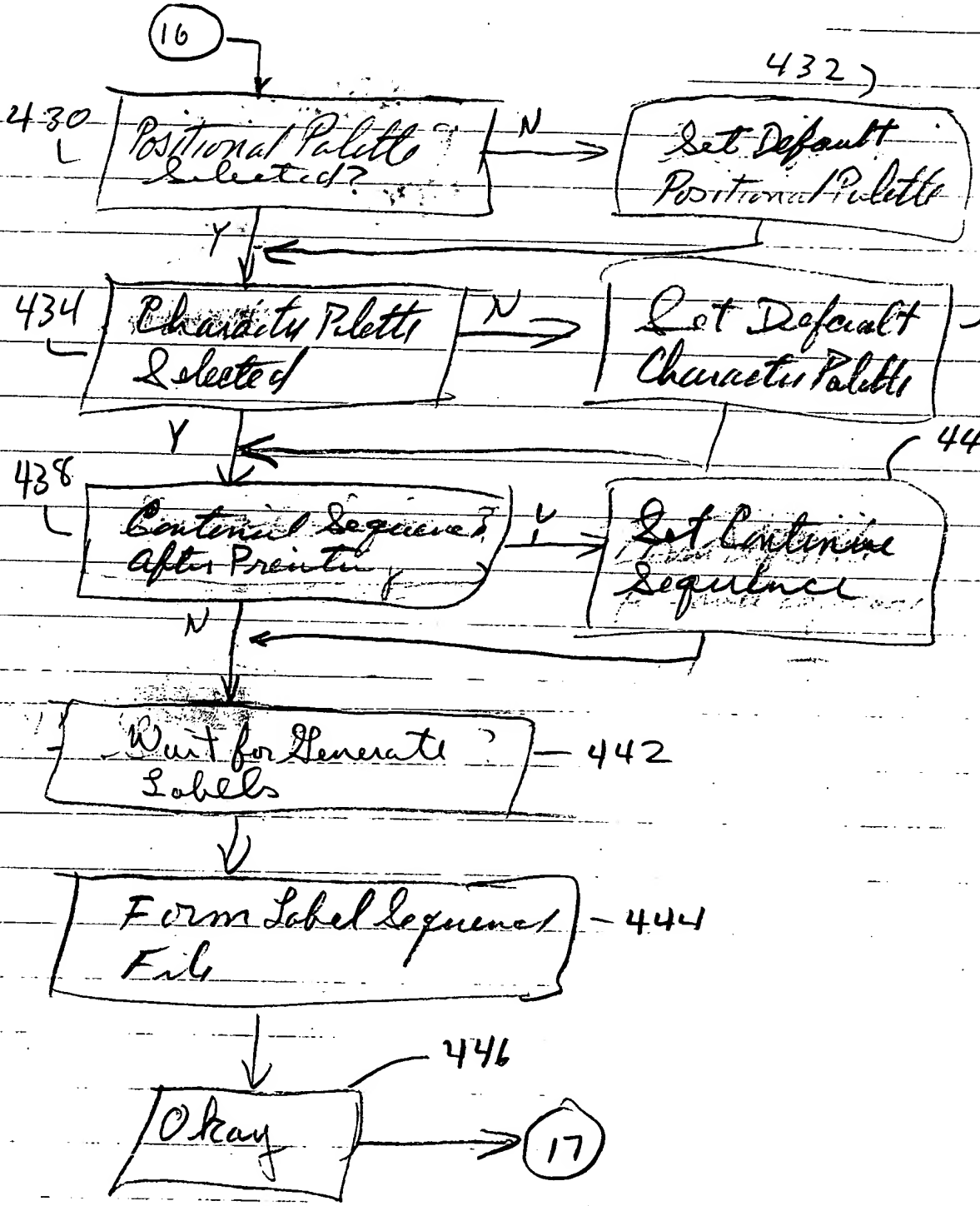

FIG. 16

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Replacement sheet

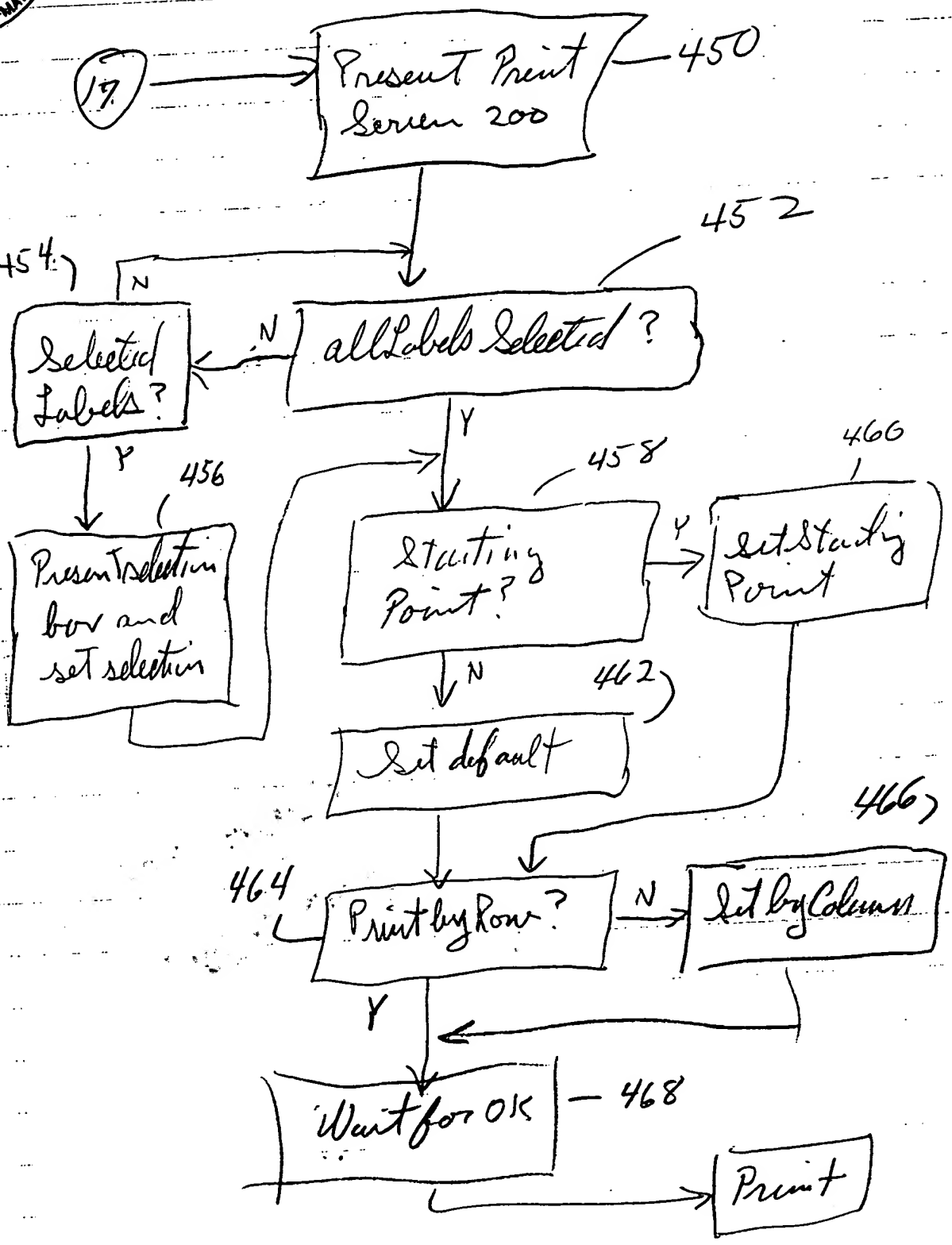

FIG. 17.